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George B. Henderson II
U.S. Department of Justice
Environmental Defense Section
L'Enfant Plaza Station
P.O. Box 23986
Washington, D.C. 20026-3986

Re: State of New York v.
United States, et al.
Comments on Phase I
Report (Draft) and
Phase II/IVA Draft
Work Plan

Dear Mr. Henderson:

Pursuant to paragraph 13 of the Interim Consent Decree the State of New York hereby submits the following comments on the Phase I Report (Draft) for the Southeastern Landfill Site (referred to in the Report as Runway Disposal area) and the Dog Kennel Site (referred to in the Report as Canine Kennel Landfill) and the Phase II/IV A Draft Work Plan for the Fire Training Area.

Phase I Report (Draft)

The Phase I Report was generated to satisfy the requirements of the Interim Consent Decree, paragraph 12. The purpose of the Phase I Report is to "identify the potential for environmental contamination from past waste disposal practices [by the Department of Defense] and assess the probability of contamination migrating beyond the former installation boundaries." Draft I-2. The Phase I Report also contains recommendations as to whether further investigations are necessary to confirm an environmental hazard. In addition to requiring the Phase I Report, the Consent Decree sets up a detailed procedure whereby New York State evaluates the report and submits its comments, suggested modifications and noted deficiencies to the United States. See Consent Decree, paragraph 13.

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The Report, which is based upon a records search, interviews with key base personnel, and a review of documents generated by federal, State and local agencies, finds that contaminants released at the Southeastern Landfill and the Dog Kennel Site do in fact have a potential for off-base migration, Draft V-2, and recommends additional investigations. The Report concludes, however, that the contaminants were not disposed of by the Air Force and therefore the additional investigation is not the responsibility of the Department of Defense. Unfortunately, the Report totally fails to document or support in any fashion the conclusion that the Air Force did not release the hazardous waste. Instead, with regards to this critical issue the Report contains only conclusory statements, without providing the sources of information or aerial photographs relied on. Moreover, requests by New York State for this information were rejected.

With respect to the Dog Kennel Site the Report asserts, in part:

Despite the presence of these transformers at Site 2, information obtained through interviews and interpretation of aerial photographs indicates that the transformers did not originate at the site from the Air Force's burial operation. Most of the transformers at the base were reportedly left in-place after the base was closed, and those that were removed were shipped to a private contractor to repay a previous loan of transformers to the base. The aerial photos show the sand at the DRMO burial area to be redisturbed and in its current condition as early as 1976. It is likely that the transformers were put into the ravined area between 1970 and 1976. The source of the transformers and capacitors is unknown. Draft IV-14.

As the buildings on the base were cleaned out during the deactivation process, salvageable materials were sent through DRMO for resale or redistribution. Any materials that remained at the DRMO area in March 1970 were then buried in a bulldozer-dug pit located adjacent to DRMO (Site 2, Canine Kennel Site). Only inert materials were reportedly deposited in this area. Draft IV-6

Sometime before the burial operation at DRMO, all remaining waste oils, solvents, paints, rags, pallets, railroad ties, and other,

flammable items (solid and liquids) were disposed of in a single-burn disposal operation which reportedly took place adjacent to a runway pod off of the eastside taxi-way. All flammable wastes remaining on the base after the official closing date in December 1969 were reportedly consumed in the one-time burning operation.
Draft IV-7

With respect to the Southeastern Landfill the report asserts, in part:

The majority of wastes disposed of at Site 1 were inert wastes associated with construction. Unauthorized disposal of other wastes in this area, after 1970, has resulted in potential contamination at Site 1. Draft ES-1

Reportedly, Air Force personnel did not use this disposal area for wastes other than concrete during either the base's normal operation or shutdown phase. Reportedly, prior to base deactivation, regular inspections of the disposal area were conducted by Air Force personnel in order to prevent the unauthorized disposal of wastes at this site. It was further reported that any items except the concrete that were found during these inspections were removed and disposed of according to base practice. Some inert yard waste and construction debris may have remained due to its innocuous condition.
Draft IV-14

With respect to general disposal practices the Report also asserts, in part:

The wastes that were deposited in the dumpsters were picked up by personnel from the Roads and Grounds Department, which reportedly operated several refuse hauling vehicles. The collected wastes were then transported off-base to the Southampton Town Landfill (Figure 3-7). It is reported that during the base's most active periods (Korean and Southeast Asian Conflicts), a privately contracted waste hauler also picked up refuse from the base. This waste would also have been transported off-base probably to the town landfill. Draft IV-4

Drummed waste POLs from the Montauk Radar site, a separate Air Force facility located in Montauk, were reportedly transported to SCAFB during the mid-to-late 1960s for application onto the base grounds for weed control. This operation was never undertaken, and the drums were stored on an east side taxi-way of the airfield (Figure 2-2) until the base was shutdown (see discussion on deactivation phase.) An estimated 50-100 drums of waste POLs were reportedly transported and stored at this location. It is reported that waste fuels and oils were not routinely used on the grounds of the base for dust suppression or weed control. It is likely that unknown small quantities of waste POLs from various base shops were disposed of in the base's sewer/cesspool systems. Draft IV-5

Parenthetically, although 40-50 drums were found at the Southeastern Landfill, Draft IV-13, no explanation is given for the apparent failure to explore a possible connection between the Landfill drums and the estimated 50-100 drums of waste POLs.

New York State has basically been asked to accept the conclusory and exculpatory assertions concerning the practices of the Air Force with respect to its general waste disposal practices and its disposal of wastes at the Dog Kennel Site and Southeastern Landfill in particular. Regardless of whether the Air Force normally keeps its Phase I sources confidential, here, where the study was done to satisfy a Consent Decree in a litigation context, the State is entitled to access to the sources on which the Reports conclusions are based. New York State will then be able to assess the validity of those conclusions having examined, among other things, whether they are based on written documents, whether those documents were contemporaneous or created years after the fact, whether the persons interviewed held positions of responsibility at the base or were actually involved in the process of waste disposal, whether the information the interviewees provided was first hand or based on hearsay or rumor, whether any of the information was corroborated or contradicted by other interviewees or documents, and whether any of the sources could be held individually responsible for the waste disposal practices of the Air Force.

New York's concerns with the accuracy and reliability of the Report's conclusion concerning lack of Air Force responsibility are heightened by a factual assertion that appears to be erroneous. The Report states at various points that PCB transformers and capacitors found on the Dog Kennel Site were removed by the State of New York in 1984. Draft ES-1. However, according to the responsible State Agency (the Department of Environmental Conservation) the State of New York did not remove the transformers and

capacitors. New York State fears that this may be only one of many such erroneous facts and conclusions which will go unchallenged if the source material continues to be withheld.

In addition, the Phase I Report must be clarified with respect to any activities of the Air National Guard relating to the disposal of hazardous substances at the Southeastern Landfill and the disposal of transformers and capacitors at the Dog Kennel Site. The Report states that the contamination was not caused by any Air Force activities prior to 1970, but fails to address the issue of disposal practices of the Air National Guard.

As a consequence of these deficiencies the State is not in a position to evaluate and comment in any meaningful way as called for in the Consent Decree, upon those elements of the Phase I Report which conclude that the United States is not responsible to carry out a Phase II/IVA Draft Work Plan. New York State therefore considers the Report to be out of compliance with the Interim Consent Decree and requests that the United States promptly provide the documentation and supporting information concerning both Air Force and Air National Guard activities necessary to properly evaluate the Report.

In addition, please note that the State's comments address only those elements of the Report related to the Southeastern Landfill and the Dog Kennel sites as provided in the Interim Consent Decree. The lack of comments by the State with regards to other issues raised in the Report, e.g. disposal of petroleum products in the sewer system, Draft IV-5, should not be deemed an approval by the State of those statements.

Finally, at the meeting on November 12, 1986 Arthur Lee suggested that statements in the Report concerning materials burned at the Fire Training Area should be deleted. New York strongly objects to this and it is our understanding that these statements will not be deleted.

Phase II/IVA Draft Work Plan

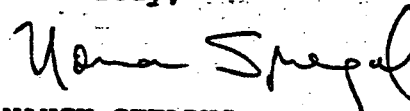
New York makes the following comments on the Draft Work Plan for the Fire Training Area:--

1. The Work Plan calls for the installation of 2" diameter monitoring wells. Throughout the discussions on the Work Plan New York has expressed a preference for 4" diameter monitoring wells because they provide greater flexibility in the methods used for development and sampling. If 2" wells are installed then at a minimum, no air should be used during the development and the sampled groundwater must be sediment free.

2. It is the State's understanding that preliminary modeling was done to predict the plume geometry and that the proposed location and intermediate screening depth of well 104 is intended to test this model. Positive findings will of course serve this purpose. However, non-detect water quality data from well 104 does not preclude the possibility that contamination has spread to or beyond this point at a different depth. Therefore, in the event if non-detect findings it will be necessary, in keeping with the phased approach, to install additional monitoring wells at this location in the shallow and/or deep aquifer unless evidence to the contrary exists.

3. The Phase I Report (Draft) discusses certain organics found downgradient of Landfill 1 which may be attributable to the Fire Training Area. However, wells immediately downgradient of the Fire Training area were not sampled for these analytes. Since the priority pollutants list does not report these analytes and the proposed oil and grease screen is unlikely to detect them, the State believes that it is necessary in the Fire Training Area investigation to identify and quantify any compound found by GC/MS which show peak areas above 10% of the internal standard.

Sincerely,



NANCY STEARNS
NORMAN SPIEGEL
Assistant Attorneys General

NS:FC

cc: William W. Owens
Lt. Col. Richard Lotz
Arthur Lee
Dan Lane